

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.335 of 2015

Swagatham Foundation
represented by its Trustees

1.V.K.Ranganathan
2.C.R.Raju

.. Petitioners

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 25.06.2014 made in I.A.No.901 of 2013 in Trust O.P.No.123 of 2011 on the file of the Principal District Court, Thiruvallur and to order withdrawal of a sum of Rs.25,37,600/- by the petitioners in I.A.No.901 of 2013 in Trust O.No.123 of 2011.

For Petitioners : Mr.S.Sandeep

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 25.06.2014 made in I.A.No.901 of 2013 in Trust O.P.No.123 of 2011 on the file of the Principal District Court,

Thiruvallur and to order withdrawal of a sum of Rs.25,37,600/- by the petitioners in I.A.No.901 of 2013 in Trust O.P.No.123 of 2011.

2.The petitioner filed Trust O.P.No.123 of 2011 on the file of the Principal District Court, Thiruvallur, for permitting them to sell 'B' schedule property for a total sale consideration of Rs.25,00,000/- to M/S.Muktha Foundation Pvt. Ltd. as per the agreement of sale dated 13.05.2011 measuring 36 cents in S.No.66/1A1 and 73 cents out of 1.54 Acres in S.No.66/1A2 in Sorancherry village Group No.6 (Hamlet Anaikkattucherry village), Poonamallee Taluk, Thiruvallur District. The petitioner sought permission to sell the property in order to construct old age home in 1.00 Acre of land in S.No.65/3, patta No.508, dated 19.02.2007 in Sorancherry village.

3.The learned Principal District Judge, Thiruvallur, considering the averments made in the petition, oral and documentary evidence, allowed the Trust O.P by order dated 05.03.2012 granting permission to the petitioner to sell the property and directed the petitioner to deposit the sale consideration into Court. The sale was completed and amount was deposited into the Court to the credit of

Trust O.P.No.123 of 2011.

4.The petitioner filed I.A.No.901 of 2013 under Section 151 of C.P.C to permit the petitioner to withdraw the amount of Rs.25,37,600/- from the Court deposit. One V.K.Ramasamy, the Managing Trustee was examined as P.W.1 and marked four documents as Exs.P1 to P4. Ex.P1 is the xerox copy of the agreement dated 30.06.2012, which was entered into between the petitioner and one Ishwariya Constructions. According to the petitioner, as per the said agreement, Ishwariya Constructions constructed the old age home and amounts are to be paid to Ishwariya Constructions for the work done by them.

5.The learned Judge considering Ex.P1/agreement dated 30.06.2012, wherein Ishwariya Constructions has put up construction at Vayanallur, Pattabiram, Chennai and not in Sorancherry Village, dismissed the application on the ground that the petitioner has not constructed old age home in Survey No.65/3 in Sorancherry Village, for which alone, the petitioner was permitted to sell the property belonging to the Trust O.P.No.123 of 2011.

6.Against the said order of dismissal dated 25.06.2014 made

in I.A.No.901 of 2013 in Trust O.P.No.123 of 2011, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel for the petitioner and perused the materials available on record.

8.The learned counsel for the petitioner/Trust contended that the property of the Trust is situate in Poonamallee-Pattabiram bus route and Vayanallur is border village to Sorancherry village, which is inside the bus route and the same is not popular. The area is known as Vayanallur village and property of the Trust is in Survey No.65/3, Sorancherry village, which is adjacent to Vayanallur village. The Trust has constructed old age home only in Survey No.65/3, Sorancherry village.

9.To substantiate his contention, the learned counsel for the petitioner/Trust has filed additional typed set of papers enclosing following documents: (i) Patta No.508 in the name of the petitioner/Trust, represented by V.K.Ramasamy, Managing Trustee, (ii) Approved plan showing the construction of the home for the elders of petitioner/Trust in Survey No.65/3 and (iii) Copies of the

water tax and house tax paid by the petitioner.

10.From the documents now produced, it is seen that the petitioner has constructed old age home in Survey No.65/3, Sorancherry Village. In view of the documents now produced, the impugned order of the learned Judge dismissing I.A.No.901 of 2013 is set aside and I.A.No.901 of 2013 is allowed, directing the learned Principal District Judge, Thiruvallur, to issue cheque in the name of the petitioner/Trust.

11.With the above direction, this Civil Revision Petition is allowed. No costs.

23.03.2018

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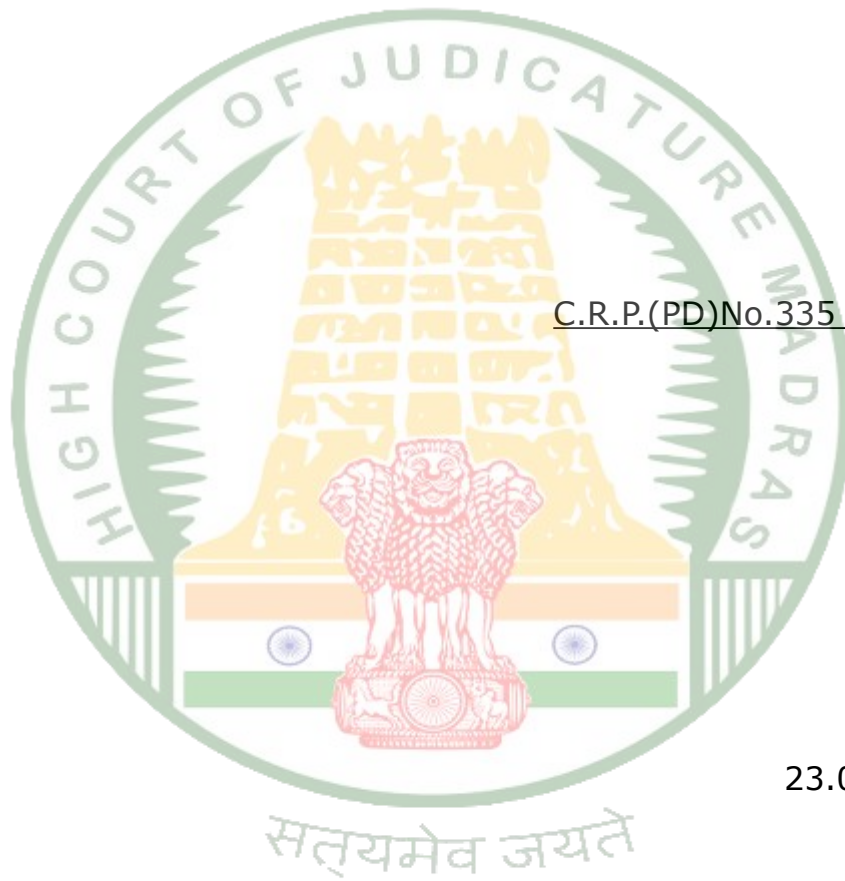
To

The Principal District Judge, Tiruvallur.

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V.M.VELUMANI, J.

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